



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

December 3, 2007

Robert Baum, Esq.
Federal Defenders of New York, Inc.
52 Duane Street
11th Floor
New York, New York 1007

Re: United States v. Marvin McFoy
05 Cr. 1311 (PAC)

Dear Mr. Baum:

This letter provides discovery pursuant to Rule 16(a) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."), and seeks reciprocal discovery.

Disclosure By the Government

Based on your request for discovery in this case, I have enclosed copies of the following materials, which are stamped as follows:

Indictment	1-4
NYPD Lab Report	5
Marshals intake form and photo for Marvin McFoy	6-8
Wire applications and other related documents for (646) 894-6458	9-94
Wire applications and other related documents for (646) 418-7792 and (908) 652-1093	95-295
Wire applications and other related documents for (646) 418-7792	296-391
Line sheets for calls most relevant to McFoy	392-443

Compact disks containing line sheets and recorded phone calls for calls intercepted pursuant to above-referenced phone numbers.

If you wish to inspect any of the evidence, please let me know and I will make arrangements for you to do so.

The Government recognizes its obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. To date, the Government is unaware of any *Brady* material regarding your client, but will provide timely disclosure if any such material comes to light.

The Government will provide material under *Giglio v. United States*, 405 U.S. 150, 154 (1972), and its progeny, in a timely manner prior to trial.

Disclosure By the Defendant

In light of your request for the foregoing discovery, the Government hereby requests reciprocal discovery under Fed. R. Crim. P. 16(b). Specifically, we request that you allow inspection and copying of: (1) any books, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial; and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial or which were prepared by a witness whom the defendant intends to call at trial.

The Government also requests that the defendant disclose prior statements of witnesses he will call to testify. See Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 225 (1975). We request that such material be provided on the same basis upon which we agree to supply the defendant with 3500 material relating to Government witnesses.

Sentence Reduction for Acceptance of Responsibility

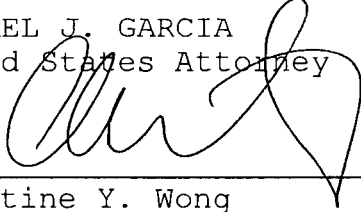
This Office will oppose the additional one-point reduction under the Sentencing Guidelines available for defendants who plead

prior to the Government's initiation of trial preparations, U.S.S.G. § 3E1.1(b)(2), in the event your client has not entered a plea of guilty two weeks prior to trial. We will follow this policy whether or not suppression or other pretrial motions remain outstanding after this date and even if the trial date has not been announced by the Court two weeks in advance of the trial.]

Please contact me at your earliest convenience concerning the possible disposition of this matter or any further discovery which you may request.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By: 
Christine Y. Wong
Assistant United States Attorney
(212) 637-2460